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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CHRISTINE LAYTON,

Plaintiff,

vs.

SUNBEAM PRODUCTS, INC., A FOREIGN
CORPORATION, NEWELL BRANDS, A
FOREIGN CORPORATION, DOES 1
THROUGH 10, INCLUSIVE and ROE
CORPORATIONS 1 THROUGH 10,
INCLUSIVE.

Defendant.

Civil Action No: 2:21-cv-00989-RFB-BNW

STIPULATION AND (PROPOSED)
ORDER TO EXTEND DISCOVERY
(First Request)

COMES NOW Plaintiff CHRISTINE LAYTON and Defendants SUNBEAM PRODUCTS, INC. and NEWELL BRANDS, INC. by and through their respective attorneys of record, and herein stipulate, agree and make joint application to extend the discovery period (including all corresponding discovery deadlines) in this matter to June 30, 2022, for the purpose of further discovery, including the depositions of Plaintiff and her medical providers, obtaining further information from Plaintiff about her claimed damages, the requisition of medical and billing records pertaining to Plaintiff's injuries, and conducting an inspection of the heating pad in question. This is the first stipulation for extension of all discovery deadlines.

I. INTRODUCTION

Plaintiff's claims arise out of an incident that took place on or about April 19, 2019, in Clark County, Nevada. Plaintiff allegedly sustained a large second degree burn to her right upper back, while allegedly using a heating pad manufactured by Defendants, resulting in a blister that allegedly required immediate medical attention. Plaintiff filed her Complaint in the District Court of Clark County, Nevada on March 8, 2021. Defendants Sunbeam Products, Inc. and Newell Brands, Inc. removed this matter to the United States District Court of Nevada on May 24, 2021. Pursuant to the Discovery Order entered by the Court on September 13, 2021, the last day to amend pleadings or add parties is January 28, 2022, initial expert disclosures must be served by February 25, 2022, rebuttal expert disclosures must be served by March 25, 2022, and discovery closes on April 28, 2022. Dispositive motions must be filed no later than May 27, 2022, and the Joint Pretrial Order must be filed by June 24, 2022.

Due to issues associated with obtaining discovery related to Plaintiff's claimed damages, claimed injuries, and claimed medical treatment, that further complicated the coordination of deposition dates for Plaintiff and her medical providers, as well as the coordination of expert witnesses and an inspection of the allegedly defective heating pad, the parties have agreed to extend all discovery deadlines by 60 days, altering the close of discovery to June 30, 2022. This will allow both Plaintiff and Defendants the opportunity to conduct further discovery, schedule the depositions of Plaintiff and her medical providers, coordinate an inspection of the subject heating pad, and coordinate expert witnesses.

II. DISCOVERY COMPLETED TO DATE

1. On July 1, 2021, Plaintiff served her Initial Disclosures Pursuant to FRCP 26(a)(1).

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2. On July 13, 2021, Defendants Sunbeam Products, Inc. and Newell Brands, Inc. served their Initial Disclosures Pursuant to FRCP 26(a)(1).

3. On September 24, 2021, Defendants Sunbeam Products, Inc. and Newell Brands, Inc. served their First Set of Request for Production of Documents and First Set of Interrogatories to Plaintiff.

4. On November 9, 2021, Plaintiff served her Responses to Defendants' First Set of Interrogatories and Requests for Production of Documents.

5. On January 11, 2022, Defendant Sunbeam Products, Inc. and Newell Brands, Inc. filed their Motion to Compel Plaintiff's Responses to Defendants' Request for Production of Documents.

III. DISCOVERY REMAINING

1. Deposition of Plaintiff;
2. Depositions of Plaintiff's treating medical providers;
3. Depositions noticed by Plaintiff;
4. Inspection of Subject Heating Pad;
5. Initial Expert disclosures;
6. Rebuttal Expert disclosures;
7. Depositions of all disclosed expert witnesses; and
8. Additional written discovery.

IV. REASONS WHY DISCOVERY SHOULD BE EXTENDED

The close of discovery is set for April 28, 2022, with initial expert witness disclosures set for February 25, 2022, and rebuttal expert disclosures due March 25, 2022. While the parties have engaged in the discovery as outline above, the parties need more time to conduct the discovery needed to adequately prepare for expert witness disclosures and the upcoming close of

discovery. Specifically, Defendants need more time to obtain Plaintiff's relevant medical records and bills in order to adequately prepare an expert for initial disclosure, as well as adequately prepare and take the deposition of Plaintiff and her treating medical providers. While Plaintiff disclosed medical and billing records from Henderson Hospital and Shadow Emergency Physicians in her initial disclosures and responses to written discovery, she also indicated that she sought additional treatment at Monos Health Institute and Southwest Medical Associates but did not provide additional information regarding the same. Moreover, Defendants need to inspect the subject heating pad, which has been tentatively set for March 23, 2022. The parties also need to complete the depositions of any depositions noticed by Plaintiff and her counsel.

The parties will not be able to complete these various tasks by the current discovery deadlines due to the continued need of additional medical and billing records from Plaintiff, which have been requested from Plaintiff and have been sought but not yet received by subpoenas issued to Plaintiff's medical providers by Defendants.

Nevada District Court Local Rule 26-3 states that to extend a deadline, the parties must show good cause for the extension. A showing of good cause includes the diligence of the party seeking the amendment and "the district court may modify the pretrial schedule if it cannot reasonably be met despite the diligence of the party seeking the extension." *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).

Defendants have diligently sought discovery from Plaintiff, including serving Plaintiff with requests for production of documents and interrogatories on September 24, 2021, to which Plaintiff responded on November 9, 2021. In her responses, Plaintiff indicated that she sought treatment from the four (4) medical providers noted above, but only provided the medical and billing records from Henderson Hospital and Shadow Emergency Physicians, stating that the additional medical records and bills from Monos Health Institute and Shadow Emergency

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Physicians had been requested and would be provided upon receipt. As of the filing of this stipulation, Plaintiff disclosed information from Monos Health Institute, but not information from Southwest Medical Associates, and Defendants have yet to receive copies of Plaintiff's medical and billing records via subpoena. Therefore, the Parties need more time to obtain the relevant medical and billing records in order to adequately prepare for depositions, expert witness disclosures, and the close of discovery.

Based on the Parties' continued efforts to conduct discovery, including obtaining Plaintiff's medical and billing records (via request to Plaintiff and subpoenas to the providers), and conducting written discovery to adequately prepare for the necessary depositions and expert witness disclosures, the parties' have demonstrated the requisite good cause and attempt to use alternative methods to complete discovery necessary to extend the discovery deadline. For the reasons stated above, the parties respectfully request this Court approve the instant Stipulation and enter its order granting the same.

V. PROPOSED SCHEDULE FOR COMPLETE DISCOVERY

	<u>Current:</u>	<u>Proposed:</u>
Last day to conduct all other discovery:	April 28, 2022	June 30, 2022
Last day to amend pleadings/add parties:	January 28, 2022	March 30, 2022
Last day to disclose experts:	February 25, 2022	April 27, 2022
Last day to disclose rebuttal experts:	March 25, 2022	May 27, 2022
Last day to file dispositive motions:	May 27, 2022	July 27, 2022
Joint Pre-Trial Order:	June 24, 2022	August 26, 2022

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The parties have entered into this Stipulation in an effort to complete discovery and pretrial motions. It is not the intent of the parties to delay the conclusion of this matter. The parties wish to obtain any and all necessary information, through formal discovery, to evaluate this case for further settlement purposes and to prepare the case for trial. No trial date has been scheduled.

Dated this 18th day of January, 2022.

Dated this 18th day of January, 2022.

ALVERSON TAYLOR & SANDERS

RICHARD HARRIS LAW

/s/Jonathan B. Owens

/s/Christian Miles

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ORDER

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IT IS SO ORDERED

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DATED: 2:40 pm, January 31, 2022

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**BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE**

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